

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3834 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

ILABEN RATILAL VALA

Versus

DDO RAJKOT

Appearance:

MR ARVIND K THAKKAR for Petitioner
MR HS MUNSHAW for Respondent No. 1
MR HH PATEL for Respondent No.2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 18/08/1999

ORAL JUDGEMENT

#. It is a matter which reflects how far the respondents

are vigilant and careful to see and to protect the benefits and reservation, which are being given to the Scheduled Cast and Scheduled Tribe category in the country in the matter of employment to public services.

#. The petitioner is a Scheduled Caste candidate serving as Anganvadi Worker with respondent No.1 at its centre No.53 for last 14 years. The respondent No.2, Gujarat Seva Pasandgi Board, Ahmedabad invited applications for open selection on the post of Mukhya Seveka. In response to this advertisement, the petitioner submitted her application as she possess all requisite qualifications prescribed for the post. Her application came to be rejected on the ground that she was not eligible as well as she has not paid the examination fees. This petition is filed to challenge that action of the respondent No.2. On notice, the respondents put appearance and filed reply to the petition separately.

#. So far as the respondent No.1 is concerned his reply is of no substance but the reply of the respondent No.2 is relevant which I will briefly state in the later part of the judgment.

#. The learned counsel for the respondents admit that so far neither examination for selection to the post of Mukhya Seveka has been conducted nor the interviews is fixed. The learned counsel for the respondents admit that the matter of the selection on the post of Mukhya Seveka is at the stage where the applications have been received and the same have been scrutinised rest of the process has to be undergone. In the reply, it is the case of the respondent No.2 that the application of the petitioner is not rejected on the grounds which the petitioner stated in the Special Civil Application.

#. During the course of arguments, learned counsel for the respondent No.2 admits that the petitioner possesses the requisite academic qualifications prescribed for the appointment through selection to the post of Mukhya Seveka and being a Scheduled Caste candidate she was not required to pay any examination fees. The respondent No.2 contends in the reply that her application has been rejected only on the ground that she has not enclosed to the application form, the certificate of her date of birth. The original application of the petitioner is perused and I find therefrom that in the column which is there for mentioning the date of birth the petitioner has mentioned her date of birth. It is not in dispute that the date of birth of the petitioner mentioned in the application form is correct. In the application form in

Column No.15 she has also ticked mark to the item i.e. the certificate of the date of birth. It is also not in dispute that subsequently when the petitioner came to know about this alleged defect in her application, she submitted the certificate of her date of birth. It is the case of the petitioner that she enclosed the copies of all the certificates mentioned at Sr. No.15 by her to the application. So, the pivotal question or issue is who is correct in their statements. The petitioner has not come up with any case of any mala fides of respondent No.2 nor it is a case of the petitioner where she has stated that with some oblique motive her date of birth certificate was removed from the application form. The learned counsel for the respondent No.2 admits that the possibility of detachment of the date of birth certificate of the petitioner from her application in handling of the applications received and scrutinising thereof cannot be over ruled. I fail to see why the petitioner, who is desiring or aspirant of the appointment on the post of Mukhya Seveka will not produce this document. It is not the case of the respondent No.2 that her date of birth as disclosed in the application is not tallying with her date of birth recorded in this certificate. In normal circumstances the presumption goes that the petitioner has submitted the date of birth certificate enclosed to the application form, which is also supported from the facts, on which there is no dispute that she has mentioned her date of birth in the application mentioned that certificate is enclosed to the application form. Even if it is taken that there is some doubt in the matter of filing of the certificate or detachment thereof from the application while dealing with and scrutinising the application then the benefit of doubt has to be given to the petitioner. The learned counsel for the respondent No.2 very fairly submits that in case where it is a case of a doubt then the benefit has to go to the petitioner and more so when the certificate of date of birth has already been produced on the record and her date of birth mentioned in the application tallies with this certificate. The date of the examination has not been fixed so far and the interviews have also not been scheduled.

In the result, this Special Civil Application succeeds and the same is allowed. It is hereby declared that the application of the petitioner submitted for appointment through selection for the post of Mukhya Seveka is complete in all respects and she is to be considered eligible to participate in the selection.

Rule is made absolute in the aforesaid term. No

order as to costs.

(S.K.Keshote, J.)

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